

THE HONOURABLE SRI JUSTICE V. ESWARAI AH

WRIT PETITION No.2293 OF 2007

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DATED: 10-04-2007

BETWEEN

M/s. Arogyavaram Medical Centre,
A society registered under the provisions
Of the Registration of Literary, Scientific
And Charitable Societies, 1860 Act XX1 of
1860, (Regd.No.9 of 1913-14) having its
registered office at Union Mission
Tuberculosis Sanatorium, Arogyavaram,
Chittoor District, A.P. rep. by its
Director Mr. D.B. Wesley, S/o. Late B.J. Dora
Swamy, R/o. Arogyavaram, Chittoor District.

...PETITIONER

AND

Government of Andhra Pradesh,
Rep. by its Secretary, Home
Department, Secretariat,
Hyderabad and others.

...RESPONDENTS

ORDER:

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Petitioner, Arogyavaram Medical Centre, a society registered under the provisions of Registration of Literary, Scientific and Charitable Societies, 1860 Act XX1 of 1860, well-quipped 425 bedded general hospital questions the order of the first respondent dated 11.01.2007 in Letter No.34254/Genl.B/A2/2006-2, which reads as follows:

“With reference to your representation 3rd cited, I am directed to inform you that the Government have further examined your request and rejected the same as the proposed scheme does not deserve exemption under the Prize, Chits and Money Circulation Scheme (Banning) Act and Rules, 1978.”

2. Learned counsel for the petitioner submits that the petitioner-society had been taking up several activities in its medical centre and obtained income tax exemption under Section 80G and 35 AC of the Income Tax Act. He further submits that as per the scheme notice issued by the petitioner-society the patients would have to pay Rs.396/- as donation for the first time and thereafter treatment would be almost free. He further submits that with regard to the said scheme the police is interfering with the activities of the petitioner-society alleging that its activities in collecting donation of Rs.396/- at the time of registration is contrary to the provisions of the Prize, Chits and Money Circulation Schemes (Banning) Act, 1978 (for short 'the Act') and therefore, the petitioner made an application before the third respondent – the Sub-Collector, Madanapalli, Chittoor District.

Though the respondents 2 and 3 favourably recommended the case of the petitioner, the first respondent issued the impugned letter dated 11.01.2007 rejecting the request of the petitioner-society without assigning any reasons.

3. Counter has been filed by the first respondent on behalf of the respondents stating that under Section 3 of the Act no person shall promote or conduct any prize, chit or money circulation scheme or enroll as a member to any such chit or scheme. Under Section 11(d) of the Act nothing contained in the Act shall apply to prize chit or money circulation scheme promoted by any charitable or educational institution notified in this behalf by the State Government,

in consultation with the Reserve Bank. Further under Section 11(d) of the Act such institution which is desirous to be notified shall make an application in that behalf to the authorized officer, who in turn will forward the same to the Government and the State Government in consultation with the Reserve Bank notify such institution or refuse to notify such institution having regard to the facts and circumstances of the case.

It is stated that the petitioner-society made an application to the Government on 23.09.2005 stating that they have started a fund raising

programme for the welfare of AIDS, Cancer and Tuberculosis patients in the name "ACT AMC Fund Raising Project" and requested to issue an exemption notification for the project from application of the provisions of the Act and to permit the petitioner-society to run the scheme. The said application filed before the Government was forwarded to the Collector and District Magistrate and Additional Director General of Police for necessary enquiry and to furnish report. Accordingly after enquiry a report dated 23.12.2005 was submitted stating that prima facie the scheme started by the petitioner falls within the provisions of the Act, hence, the same is prohibited by the Act. It is stated that as per the said scheme a donor who pays Rs.396/- upon completing the Referral Zone after introducing two more donors, in a pyramid form, is eligible for Rs.1,00,499/- and in a non referral zone an amount of Rs.12,100/- with conditions.

It is stated that the scheme facilitates dishonest inducement of the poor and middle class employees to become subscribers only to make may other gullible people to join the scheme so as to enable them to get remuneration proposed under the said scheme, which obviously results in huge sums of money being subscribed by the public and circulated amounts reaching the petitioner-society. Therefore, it is stated that it is not desirable to exempt petitioner-society under Section 11(d) of the Act.

4. Admittedly, a perusal of the impugned letter goes to show that absolutely no reasons have been assigned as to why the application of the petitioner-society is rejected for exemption under the Act.

It may not be just and proper on the part of the respondents to submit reasons by way of filing a counter, as the impugned order itself shall be a reasoned order for rejecting the application for exemption. Therefore, without expressing any opinion on the merits of the case, the impugned order is set aside and the matter is remitted to the first respondent to consider and dispose the application of the petitioner-society by way of a reasoned order, after giving reasonable opportunity to the petitioner-society, in accordance

with law.

The writ petition is accordingly disposed of. There shall be no order as to costs.

V. ESWARAIAH, J

April 10, 2007
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